

South East Water's
response to
consultation on
protecting customers in
the non-household
retail market.

January 2016

1 INTRODUCTION

This document provides South East Water's response to the consultation on how customers should be protected in the non-household retail market

Overall we are supportive of the need for protection in this environment, in particular in regards to the areas of miss-selling and creating a confidence from all customers in this new retail market in regard to safety and security of the switching process. We also believe that the consultation draws out some areas which we feel require should be considered further;

- As a general principle we believe that all customers should be treated consistently, regardless of size or attributes in any process. This should also be carefully administered in the areas of sales and key facts in any quotations. We believe there is a risk by the creation of customer segments and the need for different approaches that may potentially lead to potential confusion in the market and a loss of trust. As a principle we don't believe market power should be used as a reason to reduce protection offered by codes or principles and whilst it may be argued that due to market power and size, misselling or inappropriate selling is less likely to occur, the lack of in-built protection will undoubtedly reduce trust in the market.
- There is a risk that where data requirements are specified and comparisons are enforced e.g. for tariffs, this will distort the market and not be akin to real markets, whilst we understand the protection this offers, a market does rely on the buyer assessing via whatever means available what represents value to them, the onus should be on ensuring that misselling does not occur rather than leading the customer to their personal optimum purchase.

2 ANSWERS TO SPECIFIC CONSULTATION QUESTIONS

Consultation questions

Below are responses to the specific questions raised.

Q1. Do you have any comments on our proposal to introduce a mandatory Customer Protection Code of Practice to protect customers in the non-household retail market?

We agree that a customer protection code of practice should be implemented as this will help customers have confidence in the market changes and their interface with the market. This will be particularly concerning for some customers who will have experienced issues in the energy market on de-regulation.

We feel that any implemented codes should be applied equally irrelevant as to customer size or type as this will create tiered business processes, creates some complexity around classification of customers and sales processes.

Q2. What do you think we should consider when defining smaller customers (microbusinesses, small businesses and SMEs)?

Our view is that we should avoid having to define these 3 areas by offering a singular process to all customers. Should it be necessary to define a small business then ideally this would be kept simplistic and utilising something that can be easily identified by both the retailer and the customer.

This will also need to consider the definitions in terms of jurisdiction i.e. should a company trading in Scotland / Wales and England need to be split and considered merely in terms of trading size within the market i.e. England

Q3. Should the proposed additional protections for smaller customers apply to just microbusinesses, or small businesses, or all SMEs?

As per our answer above we believe it should apply to all customers equally.

Q4. Do you agree with our proposals to use the Customer Protection Code of Practice to protect micro-businesses from certain sales and marketing activities?

Yes we agree with the consumer protection, especially in regard to requirements before switching can be initiated, however due to the potential low margins in this area this needs to be considered in the context of the cost to the supply chain and therefore be capable of adoption without significant cost. We however feel this protection should be equally provided to all customers

Q5. Do you agree with our proposal to require retailers to provide certain basic information in a standard format to allow micro-businesses to compare deals?

We feel that this may stifle innovation as it may prevent customers from encouraging and retailers from providing innovative pricing products and solutions due to the need to comply with this. We agree with transparent and clear offerings but customers should always maintain ultimate responsibility for deciding appropriateness based on their own specific circumstances.

Q6. Do you agree with our proposal to require retailers to make sure that any TPIs acting as agents on their behalf are aware of, and understand, how the provisions of the Customer Protection Code of Practice apply?

Yes – Our view is that many third party introducers will be directly working for customers and in those cases are not acting on behalf of any retailers. Where a TPI is directly introducing to a retailer then we would expect them as an agent to be managed from a compliance perspective by the retailer.

Q7. Do you have any comments on our plan to explore the possibility of requiring retailers to only interact with TPIs that have signed up to a set of standards, either through an accreditation scheme or another voluntary code of practice?

No we agree that TPIs should be bound by any codes of practice or standards that a retailer is bound by. If any accreditation schemes are introduced then this should be directly administered between the members and Ofwat.

Q8. Do you agree with our proposal to use the Customer Protection Code of Practice to set specific standards of conduct for retailers in relation to contracts with micro-businesses? Do you have any comments on the issues that we propose to cover?

We agree completely with the concept of standards of conducts for retailers in regard to contracts. Irrelevant of customer size we feel all should be entitled to this protection.

Q9. Do you agree with our proposal to include a requirement in the Customer Protection Code of Practice for retailers to provide certain information to all eligible non-household customers, and additional information to micro-businesses?

Yes we agree (subject to response in Q8)

Q10. Do you have any comments on the information that needs to be provided to customers?

No

Q11. Do you agree with our proposal to require retailers to offer a cooling off period of at least seven calendar days to micro-businesses? Should a cooling off period be offered to all eligible non-household customers, and if so, should customers be allowed to opt out of any such cooling off period?

Yes as business customers if they wish to opt out then this should be allowed although it should be very clearly defined and documented what this may mean for the customers. This will also need to be aligned with the switching rules as ideally no request for switching ought to take place before any cooling off period has expired. We also would recommend that the cooling off period should apply to all customers unless they opt out.

Q12. Do you agree with our proposal to require retailers to take active steps to confirm that micro-businesses are aware of, and understand, the terms of the contract before they agree to it?

In order for the industry to make this market a success this element is critical across all customers.

Q13. Do you agree with our proposal to require retailers to obtain a copy of written confirmation that a TPI is acting on behalf of a customer, before sharing any details about that customer with the TPI?

We believe this could be different dependant on the circumstances and may be difficult where there are complex relationships on sites e.g. Occupier, Managing Agent, facilities management, energy consultants. We would suggest that as principle a retailer would be expected to undertake appropriate due diligence as to relationships which may include written evidence.

Q14. Do you have any other comments on our proposals in relation to contracts and information to be provided to customers?

No

Q15. Do you have any comments on the proposed timeframe of 6 to 20 working days for the switch to take place, with a retailer and customer able to agree a named day for the switch?

Whilst the principle of having a proposed timeframe for the switch to be undertaken seems to be a sensible approach as the incumbent retailer should not be able to hold up the transaction unnecessarily. However, should a large multi-site customer switch then this may be difficult to manage within such short timescales across the market. This also has to be considered in light of necessary Wholesaler switch transactions and activities along with the retailers.

Q16. Do you agree with our proposal to use the Customer Protection Code of Practice to require retailers to take all reasonable steps to ensure they have a valid contract with the customer before they request a switch?

Yes – A valid contract plus expiration of the cooling off period.

Q17. Do you agree with our proposal to require an outgoing retailer to inform the affected customer of the reason for any cancellation of the switching process, and advise the customer on the process and timeframe to resolve the issue?

Yes – In particular where the switch is stopped on behalf of debt issues by the outgoing retailer then there may be data protection compliance issues by advising the incoming retailer of this reason when the customer is a sole trader or partnership. This would make it very difficult for any party other than the outgoing retailer to communicate with the customer in regard to that reason.

However, if a switch is not allowed because of a failure of the new retailer to comply with a mandatory part of the process then this should be left for the new retailer to deal with rather than the outgoing retailer with the customer.

Q18. Do you have any comments on whether or not outgoing retailers should be allowed to cancel a switch on the basis that the customer has an outstanding debt?

An outgoing retailer should have the right to block a switch if the customer has outstanding debt. We believe that this should be clearly defined i.e. a retailer can only block if any debt outstanding is greater than 90 days old.

Primary reason for this is that disconnection for non-payment may be the primary driver to get payment and 'stranded' debt without this option will be very costly to collect.

Q19. Do you have any comments on our proposal to monitor the use of the switching process, including use of the erroneous transfer and cancellation processes, after the market opens?

We believe that monitoring post market opening is a sensible approach as this may identify initial failure to comply with any standards approaches or merely poor sales processes.

Q20. Do you agree with our proposal to require retailers to issue at least one accurate bill each year to micro-business customers and, for metered micro-business customers, to take a meter reading at least twice a year?

We feel that this is prescriptive for customers in the low value bill areas and fundamentally may stifle competition for this customer segment. Customers should be made aware of the potential risks and help them to understand how this risk could be mitigated but we believe this rule may be too prescriptive and prevent reduced costs being able to be reflected by retailers.

Q21. Do you agree with our proposal to require retailers to issue a final bill to microbusinesses within six weeks of the customer's transfer or end of contract?

As is consistent across our response we agree but could see no reason why this rule should not be applied across the whole customer base.

Q22. Do you agree with our proposal to require retailers to base their final bill on the transfer read provided by the incoming retailer?

This makes perfect sense as accuracy in billing is key to overall market accuracy and customer confidence. A timescale is absolutely critical however to ensure that customers have certainty over final bills in reasonable timescales. Failure to supply a transfer read that is usable will have to result in finalisation through an estimated bill and accepted by the market.

Q23. Do you have any comments on our proposal to do nothing further at this time in relation to billing frequency and payment methods (except for micro-businesses as above)?

Agreed these are all things that should be market led and should not require being dealt with by any codes. However, should the market not provide customers with an option that is attractive to switch we recognise the importance of customer protection in terms of payment methods and service offerings for those customers.

Q24. Do you have any comments about the information that should be provided to customers on their bills?

We believe bills should always provide Supply Point Identifiers to enable the market to track customer bills and properties. This should be kept to a minimum and part of the service offering provided by the retailers.

Q25. Do you agree with our proposal to use the Customer Protection Code of Practice to prevent retailers from back-billing eligible non-household customers unless the customer has behaved inappropriately?

We do not agree with an attempt to introduce the concept of limited back-billing. The customer has an obligation to notify licence holders of their need for the supply of services and this would provide an ideal opportunity for customers to flaunt this obligation. It would be extremely difficult and costly to prove that the customer has acted or behaved inappropriately. Additionally, this creates a gap in the legitimate revenue that the business should be entitled to bill for and a scenario that does not necessarily prevent wholesalers from back-billing and creating a legitimate invoice that the retailer can never recover from the customer.

Q26. Do you agree with our proposal to require retailers to offer micro-businesses a reasonable payment plan with any back-bill, to allow the customer to pay the bill in a number of instalments?

Yes we agree with this approach and recognise that smaller customers (Micro, SME etc.) may need support in the areas of back-billing. This would also be applied in the areas of leakage also.

Q27. Do you have any comments on our proposal to take no further action in relation to refunds (other than to make sure that customers have access to a quick and effective dispute resolution process)?

No

Q28. Do you have any comments on our proposal for no additional regulation on data quality?

No

Q29. Do you agree with our proposal to use the Customer Protection Code of Practice to require all retailers to have an effective complaint handling process in place?

Yes

Q30. Do you agree with our proposal to use the Customer Protection Code of Practice to require all retailers to join the WATRS water redress scheme, if they have not already done so?

We agree that some measure should be in place but specifying the exact scheme may seem a little bit prescriptive. We feel it would be better to say that membership of a scheme is required, that you may encourage access to this scheme but it may allow other schemes in the future.